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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Antoine J Samuel,

10 Plaintiff,

11 v.

12 West Coast Servicing Incorporated,

13 Defendant.
14

No. CV-22-01122-PHX-DJH

ORDER

15 Pending before the Court is Plaintiff's Motion for Temporary Restraining Order
16 (Doc. 9). Defendant has filed a Response (Doc. 10) in opposition. The Court need not
17 wait for a reply. LRCiv 7.2(d). For the following reasons, the Motion is denied.

18 **I. Legal Standard**

19 Preliminary injunctive relief is an "extraordinary remedy never awarded as of right."
20 *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). To obtain a preliminary
21 injunction, a plaintiff must show: (1) a likelihood of success on the merits, (2) a likelihood
22 of irreparable harm if injunctive relief were denied, (3) that the equities weigh in the
23 plaintiff's favor, and (4) that the public interest favors injunctive relief. *Id.* at 20.

24 **II. Discussion**

25 Plaintiff's claim is, generally, that someone applied for a loan on his property in
26 Laveen, Arizona, using his signature without his permission. (Doc. 1 at 8). He claims that
27 Defendant asserted a debt claim against him and that his property is set for sale on July 7,
28 2022. (*Id.* at 10).

1 The Court takes notice of a prior lawsuit in Arizona state court, *Samuel v. West*
 2 *Coast Servicing, Inc.*, CV2020-003976, in which Plaintiff filed a virtually identical
 3 complaint on March 25, 2020. *See Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir.
 4 2001) (courts may take notice of matters of public record). The state court found that all
 5 the alleged “documents with signatures appearing to be Plaintiff’s is curious. One
 6 explanation is a complicated, well-executed conspiracy aimed at Plaintiff A second
 7 explanation is that Plaintiff’ obtained the loan. (Doc. 1-1 at 65). Despite these doubts, the
 8 court granted a preliminary injunction on the condition that Plaintiff post an additional
 9 bond. (*Id.* at 68).¹

10 The Court also takes judicial notice of a subsequent bankruptcy proceeding, *In re*
 11 *Samuel*, 2:20-bk-07128-DPC, in which Plaintiff filed for Chapter 13 bankruptcy shortly
 12 after the state court proceeding. Because of this bankruptcy proceeding, the state court
 13 dismissed Plaintiff’s case without prejudice. (*Id.* at 112). In the bankruptcy proceeding,
 14 on August 24, 2021, Defendant made a claim on Plaintiff for failing to make loan payments
 15 that were secured by the property (Doc. 1 at 70–90), and the bankruptcy court found that
 16 the claim was “valid and perfect, and . . . should be fully allowed as a secured claim in this
 17 case.” (Doc. 1-1 at 121). The bankruptcy proceeding was dismissed, on Plaintiff’s Motion,
 18 on June 10, 2022.

19 Plaintiff is unlikely to succeed on the merits because his claim has been brought
 20 before in Arizona state court and because the bankruptcy court has previously found that
 21 Defendant’s claims over the property are valid and enforceable, which strongly indicates
 22 that the claim is unsuccessful and cannot be litigated now because of *res judicata*. *See*
 23 *Siegel v. Fed. Home Loan Mortg. Corp.*, 143 F.3d 525, 530 (9th Cir. 1998) (holding once
 24 “the validity of the claim has been determined on the merits, and attacks upon it that ‘could
 25 have been asserted’ cannot be raised in later proceedings”). Given the low likelihood of
 26 success on the merits, there is a comparably low likelihood that Plaintiff will be irreparably
 27 harmed. The equities weigh in Defendant’s favor, who has already had to litigate this

28 ¹ The Court also notes that the state court refereed the matter for an investigation of
 potential perjury, which resulted in an indictment against Plaintiff. (Doc. 1-1 at 70–76).

1 matter through two prior courts, and the public interest does not favor further lawsuits on
2 what appears to be a settled question.

3 Accordingly,

4 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Temporary Restraining
5 Order (Doc. 9) is **denied**.

6 Dated this 6th day of July, 2022.

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10 Honorable Diane J. Humetewa
11 United States District Judge
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